HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G. V. SEETHAPATHY

Writ Appeal No.711 of 2006

Between:

Yallapragada Nagaraju

... Appellant

And

Joint Collector & Additional District
Magistrate, Krishna,
Machilipatnam & others.

... Respondents

::JUDGMENT::

Counsel for the appellant: Smt.S. Nanda

June 26, 2006

Per G.S. Singhvi, CJ

Having failed to persuade the learned Single Judge to quash order dated 20-3-2006 passed by the Commissioner (Appeals) in the Office of Chief Commissioner of Land Administration, Andhra Pradesh (respondent No.4), the appellant has preferred this appeal under Clause 15 of the Letters Patent.

The appellant's father Sri Venkata Hanumantha Rao is said to have occupied government land measuring Ac.0-05 cents in

Revenue Survey No.220/4 of Ullipalem Village, Koduru Mandal in Krishna District. After the death of his father, the appellant is said to have constructed a brick wall house with asbestos roof. In 2004, Mandal Revenue Officer, Koduru (hereinafter described as 'the MRO') issued house-site patta in favour of the appellant after taking Rs.7,260/- as market value of the land. However, the same was cancelled by District Collector and District Magistrate, Krishna at Machilipatnam (respondent No.2) vide his order dated 14-6-2004. The appellant challenged the same in Writ Petition No.10142 of 2004, which was allowed by this Court on 21-6-2004 with liberty to the officers concerned to take appropriate action after complying with the rules of natural justice.

By taking a cue from the observations made by the Court, Joint Collector and Additional District Magistrate, Krishna, Machilipatnam (respondent No.1) issued show cause notice dated 6-10-2004 and called upon the appellant to show cause as to why house-site patta issued by the MRO may not be cancelled on the ground of contravention of Condition No.9. The petitioner filed his reply to the notice. After considering the same, respondent No.1 vide his order dated

6-7-2005 cancelled the patta granted by the MRO. Appeal preferred by the petitioner against that order was dismissed by respondent No.4.

The petitioner challenged the aforementioned order in Writ Petition No.11003 of 2006. The learned Single Judge dismissed the writ petition by observing that being a member of general caste, the petitioner was not entitled to seek regularization of the encroachment made by him over the government land. The learned Single Judge observed that in terms of the guidelines issued vide G.O.Ms.No.515,

dated
19-4-2003, a member of general caste, who has encroached public land, is not entitled to seek regularization and the MRO committed grave illegality by issuing house-site patta in his favour. Learned Single Judge noted that the petitioner is a government teacher and held that he is not eligible for assignment of house-site patta.

We have heard Smt.S. Nanda and perused the record. Learned counsel could not put forward any tangible argument to assail the finding recorded by the learned Single Judge that being a member of general caste, the appellant is not eligible for house-site patta. This, in our opinion, is sufficient to negate the appellant's challenge to the orders passed by respondents No.1 and 4. Learned counsel for the appellant, however, tried to persuade us to protect the appellant's possession by stating that his family is occupying the site for the last more than three decades, but we have not felt impressed. What the learned Single Judge was required to consider and what the Division Bench has been called upon to determine is – whether the order passed by respondent No.1 cancelling the house-site patta granted by Mandal Revenue Officer is legally correct? The learned Single Judge held that in view of guidelines issued by the government vide G.O.Ms.No.515 dated 19-4-2003, the appellant is not entitled to regularization of possession because he belongs to general caste and we do not find any reason to upset this finding.

In the result, the appeal is dismissed.

G.S. SINGHVI, CJ

G. V. SEETHAPATHY, J

June 26, 2006

svs